

APPLICATION NUMBER: 24/00711/CPL

DELEGATED DECISION CHECKLIST AND REPORT

APPLICATION NO.

24/00711/CPL

CASE OFFICER

Aimee Bovaird

DETERMINATION DATE 23.09.2024 EXT OF TIME 17.10.24

Address: 13 Harry Street Rochdale OL11 3HS

Proposal: Application for a certificate of lawfulness for the proposed change of use of dwelling from Class C3 to Class C2 children's residential home

PUBLICITY	Weekly list expired?	Y	Site notice expired?	N/A
	Neighbour letters expired?	Y	Press Notice expired?	N/A

DELEGATION	Significant departure from local plan?	N	Contrary to national policy?	N
	Applicant a Council Member or officer?	N	Contrary to previous decision?	N
	Major with 10 or more objections and recommending approval?	N	Called in or Planning Panel objection?	N

COMMENTS	Planning Panel comments received?	N
	Neighbour comments received?	N

EIA	Screening opinion completed and saved to Onbase?	N
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CONDITIONS	Pre-commencement conditions proposed?	N
	Pre-commencement conditions agreed (or notification period expired)?	N

RECOMMENDATION

GRANT

CHECKED AND SIGNED OFF BY: LA

DATE: 29.10.24

SITE

This site relates to 13 Harry Street, Rochdale. This is a two storey residential dwelling with two bedrooms, a bathroom, kitchen, dining room and living room. The site fronts Harry Street and surrounding site within a terrace. There is no off street parking.

This site is located within the Defined Urban Area.

PROPOSAL

The application seeks a certificate of lawfulness for the proposed use of the existing dwelling-house C3a dwelling as a children's home for a maximum of one child, with two carers.

RELEVANT PLANNING POLICY

The Town and Country Planning Act (1990) - S.192

The Town and Country (Use Classes) Order (1987) (as amended)

National Guidance

National Planning Practice Guidance (NPPG)

RELEVANT SITE HISTORY

23/01205/CPE - Application for certificate of lawfulness for the continued use of the premises for residential use (Class C3(b) – withdrawn

CONSULTATION RESPONSES

Not applicable.

REPRESENTATIONS

In accordance with the Council's Code of Publicity for Planning Applications, this application has not been publicised.

ANALYSIS

S.55 of the Town and Country Planning Act 1990 sets out:

Subject to the following provisions of this section, in this Act, except where the context otherwise requires, "development," means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land

In respect of changes of use, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987 sets out "Where a building or other land is used for a purpose of any class specified in the Schedule, the use of that building or that other land for any other purpose of the same class shall not be taken to involve development of the land."

In assessing this application, it is necessary to understand the existing lawful use of the unit proposed to change use and the use class of the proposed use. Where the existing and proposed use do not fall within the same use class, it is necessary to consider whether the proposed use would have a materially different impact on the environment and local amenities.

For the avoidance of doubt, the planning merits of the matters applied for do not fall to be considered. The decision will be based strictly on factual evidence, the history and planning status of the site in question and the application of relevant law or judicial authority to the circumstances of the case.

Additionally, it is noted that in paragraph 006 of the NPPG (Reference ID: 17c-006-20140306), states that 'in the case of applications for proposed development, an applicant needs to describe the proposal with sufficient clarity and precision to enable a local planning authority to understand exactly what is involved.'

The applicant has stated that the building would be used in residence for a maximum of one child with a maximum of two carers. The applicant asserts that the property would be run as a household, and that the experience of the occupiers would be akin to that of a household, rather than that of a care home, and considers the proposed use to fall under use class C3(b).

Use Class C2 defines this use for the provision of residential accommodation and care to people in need of care (other than a use within class C3 (dwelling houses)); use as a hospital or nursing home; or use as a residential school, college or training centre. Care is defined in Article 2 of the UCO as meaning:

"personal care for people in need of such care by reason of old age, disablement, past or present dependence on alcohol or drugs or past or present mental disorder, and in class C2 also includes the personal care of children and medical care and treatment."

Established case law provided for by the *North Devon District Council v First Secretary of State [2004]* judgement in respect of a house used to care for children is applicable to the circumstances of lawful development certificate application. In that, the Court said that 2 children aged between 10 and 17, supported by non-resident carers, could not constitute a household for the purposes of Class C3(b).

In the *North Devon* case, the property was being used as a home for two children and two non-resident staff were on duty at all times with a shift system operated by 6 to 7 carers to maintain the requisite cover. The application was based on the premise that the children by themselves would constitute a single household with the use falling within Class C3(b).

Crucially, the judge set out that a household needed more than just children, as children: "need to be looked after. They cannot run a house. They cannot be expected to deal with all the matters that go to running a home ... children are regarded as needing full-time care from an adult, someone to look after them, someone to run their lives for them and someone to make sure that the household operates as it should." The Court therefore held that the concept of living together as a household means that a proper functioning household must exist and thus, for the use to fall within Class C3(b), the children and carers must reside in the premises. Otherwise, the use falls within Class C2.

As such, in light of above and having regard to the supplied supporting statement, it is accepted that the proposed use falls within Use Class C2 (and not C3b), which would comprise a change of use within the context of the 1987 Act given it would

comprise a change between Classes C2 and C3, however, as S.55 of The 1990 Act sets out, for a change of use to comprise development, it must be material, and in determining this application, this must be assessed.

The applicant has stated at any time there could be a maximum of three persons in the home during the day, this includes one child and two carers. This will be the same for night time.

The proposal is not considered to have a negative effect on the surrounding character of the area as the proposal will operate as a normal residential dwelling. No external works are proposed and as the dwelling is in a residential area the proposal will be compatible within the street scene.

The children will attend school during the day and make use of facilities in the surrounding area. No specific details regarding attending school have been provided, this is not considered to be different than a normal household.

No supporting statement has been submitted with the application to outline to why the children will be placed in this dwelling and does not state if any child would need further care (therapeutic, psychological, educational etc.), however where it has been deemed necessary to remove the child from their familial residence to provide round-the-clock care, it is considered that the needs of the child must be somewhat specialised.

The existing house has two bedrooms and one bedroom will be for the child and one for the carers.

The property has no off street parking, this is a characteristic of the area. There may be additional cars at the property by visiting professionals. On balance this is considered acceptable as a normal household would have visitors on occasions.

Conclusion

Having regard to the matters above, on balance it is concluded that the proposed change of use from C3 to C2 is not a material change of use, meaning that the change does not constitute development, planning permission is not required, and a lawful development certificate can be granted.

RECOMMENDATION

GRANT UNCONDITIONALLY

1. The proposed use of the building for one child and two carers on a shift basis providing care would be a change of use from C3 to C2 however the change is not considered to be material, and therefore does not comprise development within the meaning set out within section 55 of the Town and Country Planning Act (1990) and would not require planning permission.

Notes for Applicant:

For the avoidance of doubt, this decision relates to the following plans and documents:

Location Plan
Site Plan

Floor Plan received 18/10/24

Report Author Aimee Bovaird